

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

USDC Docket Number : 05-cv-11283

Teresa A. McCoy

v.

Prudential Insurance Company of America, et al

CLERK'S CERTIFICATE

I, Sarah A. Thornton, Clerk of the United States District Court for the District of Massachusetts, do hereby certify that the annexed documents numbered:

1-41

and contained in I- & II Volume(s) are the original or electronically filed pleadings and constitute the record on appeal in the above entitled case for the Notice of Appeal filed on 6/20/2007.

In testimony whereof, I hereunto set my hand and affix the seal of this Court on July 13, 2007.



By:

Receipt of the documents in the above entitled case is hereby acknowledged this date: 7/17/07

K. Dickherb
Deputy Clerk, US Court of Appeals

Please complete the following information:

COURT OF APPEALS DOCKET NUMBER ASSIGNED: _____

APPEAL

**United States District Court
District of Massachusetts (Boston)
CIVIL DOCKET FOR CASE #: 1:05-cv-11283-NG**

McCoy v. Prudential Insurance Company of America
Assigned to: Judge Nancy Gertner
Cause: 29:1132 E.R.I.S.A.-Employee Benefits
Date Filed: 06/17/2005
Date Terminated: 06/12/2007
Jury Demand: Plaintiff
Nature of Suit: 791 Labor: E.R.I.S.A.
Jurisdiction: Federal Question

Plaintiff

Teresa A. McCoy represented by **Jonathan M. Feigenbaum**
Phillips & Angley
One Bowdoin Square
Boston, MA 02114
617-367-8787
Fax: 617-227-8992
Email: jonf@phillips-angley.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant

Prudential Insurance Company of America represented by **Carey Louise Bertrand**
Wilson, Elser, Moskowitz, Edelman & Dicker
155 Federal St.
Boston, MA 02110
617-422-5300
Fax: 617-423-6917
Email:
carey.bertrand@wilsonelser.com

06/17/2005	•1	COMPLAINT against Prudential Insurance Company of America Filing fee: \$ 250, filed by Teresa A. McCoy. (Attachments: # 1 Civil Cover Sheet)(Patch, Christine) (Entered: 06/20/2005)
06/17/2005	•	If the trial Judge issues an Order of Reference of any matter in this case to a Magistrate Judge, the matter will be transmitted to Magistrate Judge Dein. (Patch, Christine) (Entered: 06/20/2005)
06/17/2005	•	Summons Issued as to Prudential Insurance Company of America. (Patch, Christine) (Entered: 06/20/2005)
10/06/2005	•2	Joint MOTION to Stay by Teresa A. McCoy. (Feigenbaum, Jonathan) Additional attachment(s) added on 11/22/2005 (Filo, Jennifer). (Entered: 10/06/2005)
10/07/2005	•3	SUMMONS Returned Executed Prudential Insurance Company of America served on 10/6/2005, answer due 10/26/2005. (Filo, Jennifer) (Entered: 10/11/2005)
10/18/2005	•	Judge Nancy Gertner: Electronic ORDER entered granting <u>2</u> Joint Motion to Stay (Filo, Jennifer) (Entered: 10/18/2005)
01/18/2006	•4	MOTION to Vacate Order on Motion to Stay by Teresa A. McCoy.(Feigenbaum, Jonathan) (Entered: 01/18/2006)
01/24/2006	•5	Opposition re <u>4</u> MOTION to Vacate Order on Motion to Stay filed by Prudential Insurance Company of America. (Bertrand, Carey) (Entered: 01/24/2006)
01/25/2006	•	ELECTRONIC NOTICE of Status Conference :Status Conference set for 3/13/2006 03:00 PM in Courtroom 2 before Judge Nancy Gertner. (Molloy, Maryellen) (Entered: 01/25/2006)
02/15/2006	•6	CORPORATE DISCLOSURE STATEMENT by Prudential Insurance Company of America. (Bogaert, William) (Entered: 02/15/2006)

03/13/2006	•	Judge Nancy Gertner : Electronic ORDER entered granting <u>4</u> Motion to Vacate Stay. (Molloy, Maryellen) (Entered: 03/14/2006)
03/13/2006	•	Electronic Clerk's Notes for proceedings held before Judge Nancy Gertner : Prudential Insurance Company of America answer due 3/27/2006., Status Conference/16.b held on 3/13/2006. Mtn to vacate stay-allowed; Stay lifted. Parties shall file a proposed joint statement on or before 4/3/06, Judge will review and adopt if appropriate. (Court Reporter none.) (Molloy, Maryellen) (Entered: 03/14/2006)
03/17/2006	•7	ANSWER to Complaint by Prudential Insurance Company of America.(Bertrand, Carey) (Entered: 03/17/2006)
04/03/2006	•8	JOINT SUBMISSION pursuant to Local Rule 16.1 by Teresa A. McCoy, Prudential Insurance Company of America.(Bertrand, Carey) (Entered: 04/03/2006)
04/04/2006	•	Judge Nancy Gertner: ELECTRONIC ENDORSEMENT adopting <u>8</u> Joint submission pursuant to Local Rule 16.1 filed by Prudential Insurance Company of America, Teresa A. McCoy. (Filo, Jennifer) (Entered: 04/04/2006)
04/18/2006	•9	MOTION to Amend <i>Complaint</i> by Teresa A. McCoy. (Attachments: # <u>1</u>)(Feigenbaum, Jonathan) (Entered: 04/18/2006)
05/08/2006	•	Judge Nancy Gertner : Electronic ORDER entered granting <u>9</u> Motion to Amend; the motion was unopposed. (Gertner, Nancy) (Entered: 05/08/2006)
05/08/2006	•11	AMENDED COMPLAINT against State Street Corporation, Prudential Insurance Company of America, filed by Teresa A. McCoy.(Filo, Jennifer) (Entered: 05/16/2006)
05/11/2006	•10	Prudential's ANSWER to Complaint <i>Amended</i> by

		<i>Plaintiff</i> by Prudential Insurance Company of America.(Bertrand, Carey) (Entered: 05/11/2006)
05/16/2006	• 11	Summons Issued as to State Street Corporation. (Filo, Jennifer) (Entered: 05/16/2006)
06/16/2006	• 12	Assented to MOTION for Extension of Time to July 10, 2006 to File Answer re <u>11</u> Amended Complaint or <i>Response to Amended Complaint</i> by State Street Corporation.(McGrane, Constance) (Entered: 06/16/2006)
06/16/2006	• 13	NOTICE of Appearance by Constance M. McGrane on behalf of State Street Corporation (McGrane, Constance) (Entered: 06/16/2006)
06/22/2006	• 14	MOTION set standard of review as de novo <i>as to benefits denial by Prudential Ins. Co. of America</i> by Teresa A. McCoy.(Feigenbaum, Jonathan) (Entered: 06/22/2006)
06/22/2006	• 15	MEMORANDUM in Support re <u>14</u> MOTION set standard of review as de novo <i>as to benefits denial by Prudential Ins. Co. of America</i> filed by Teresa A. McCoy. (Attachments: # <u>1</u> Exhibit A - LTD Plan Pages# <u>2</u> Exhibit B - Court Transcript)(Feigenbaum, Jonathan) (Entered: 06/22/2006)
06/22/2006	• 16	AFFIDAVIT of Jonathan M. Feigenbaum re <u>14</u> MOTION set standard of review as de novo <i>as to benefits denial by Prudential Ins. Co. of America</i> , <u>15</u> Memorandum in Support of Motion, by Teresa A. McCoy. (Feigenbaum, Jonathan) (Entered: 06/22/2006)
06/23/2006	• 17	MOTION short term disability benefits should be governed by Massachusetts law rather than ERISA by Teresa A. McCoy.(Feigenbaum, Jonathan) (Entered: 06/23/2006)
06/23/2006	• 18	MEMORANDUM in Support re <u>17</u> MOTION short

		term disability benefits should be governed by Massachusetts law rather than ERISA filed by Teresa A. McCoy. (Attachments: # <u>1</u> Exhibit A - STD Plan# <u>2</u> Exhibit B Advisory Opinions)(Feigenbaum, Jonathan) (Entered: 06/23/2006)
06/23/2006	<u>19</u>	AFFIDAVIT in Support re <u>18</u> Memorandum in Support of Motion, <i>Verifying Exhibits A and B.</i> (Feigenbaum, Jonathan) (Entered: 06/23/2006)
06/26/2006	<u>20</u>	CERTIFICATE OF CONSULTATION re <u>14</u> MOTION set standard of review as de novo <i>as to benefits denial by Prudential Ins. Co. of America Rule 7.1 Consult by Plaintiff</i> by Jonathan M. Feigenbaum on behalf of Teresa A. McCoy. (Feigenbaum, Jonathan) (Entered: 06/26/2006)
06/26/2006	<u>21</u>	Agreed to Record Judicial Review by Prudential Insurance Company of America.(Filo, Jennifer) (Entered: 06/26/2006)
06/29/2006	<u>22</u>	Assented to MOTION for Extension of Time to 7/12/06 to File Response/Reply as to <u>14</u> MOTION set standard of review as de novo <i>as to benefits denial by Prudential Ins. Co. of America</i> by Prudential Insurance Company of America.(Bertrand, Carey) (Entered: 06/29/2006)
06/30/2006	<u>23</u>	Opposition re <u>17</u> MOTION short term disability benefits should be governed by Massachusetts law rather than ERISA filed by State Street Corporation. (McGrane, Constance) (Entered: 06/30/2006)
07/06/2006	<u>24</u>	Judge Nancy Gertner: Electronic ORDER entered granting <u>22</u> Motion for Extension of Time to File Response/Reply re <u>14</u> MOTION set standard of review as de novo <i>as to benefits denial by Prudential Ins. Co. of America.</i> Responses due by 7/12/2006 (Filo, Jennifer) (Entered: 07/06/2006)
07/07/2006	<u>26</u>	SUMMONS Returned Executed State Street

		Corporation served on 5/30/2006, answer due 6/19/2006. (Filo, Jennifer) (Entered: 07/11/2006)
07/10/2006	24	ANSWER to Amended Complaint by State Street Corporation.(McGrane, Constance) (Entered: 07/10/2006)
07/10/2006	25	Opposition re <u>14</u> MOTION set standard of review as de novo <i>as to benefits denial by Prudential Ins. Co. of America</i> filed by Prudential Insurance Company of America. (Attachments: # <u>1</u> Exhibit Ex. 1-McEleney Order)(Bertrand, Carey) (Entered: 07/10/2006)
07/31/2006	26	Judge Nancy Gertner: Electronic ORDER entered denying <u>14</u> Motion for de novo review, granting <u>17</u> Motion for short term disability benefits should be governed by Massachusetts law rather than ERISA (Filo, Jennifer) (Entered: 07/31/2006)
07/31/2006	27	Judge Nancy Gertner: MEMORANDUM AND ORDER RE: Standard of Review and Applicability of State Law entered.(Filo, Jennifer) (Entered: 07/31/2006)
08/01/2006	28	Joint MOTION for Extension of Time to August 18, 2006 to file motions for summary judgment by Teresa A. McCoy, Prudential Insurance Company of America.(Feigenbaum, Jonathan) (Entered: 08/01/2006)
08/02/2006	29	Judge Nancy Gertner : Electronic ORDER entered granting <u>28</u> Motion for Extension of Time to File Motions for Summary Judgment. Motions due by 8/18/2006. (Patch, Christine) (Entered: 08/02/2006)
08/17/2006	30	MOTION for Summary Judgment by Prudential Insurance Company of America.(Bertrand, Carey) (Entered: 08/17/2006)
08/17/2006	30	MEMORANDUM in Support re <u>29</u> MOTION for Summary Judgment filed by Prudential Insurance

		Company of America. (Bertrand, Carey) (Entered: 08/17/2006)
08/17/2006	•31	Statement of Material Facts L.R. 56.1 re <u>29</u> MOTION for Summary Judgment filed by Prudential Insurance Company of America. (Bertrand, Carey) (Entered: 08/17/2006)
08/18/2006	•32	MOTION for Summary Judgment by Teresa A. McCoy.(Feigenbaum, Jonathan) (Entered: 08/18/2006)
08/18/2006	•33	MEMORANDUM in Support re <u>32</u> MOTION for Summary Judgment filed by Teresa A. McCoy. (Feigenbaum, Jonathan) (Entered: 08/18/2006)
08/18/2006	•34	STATEMENT of facts re <u>32</u> MOTION for Summary Judgment <i>Rule 56.1 Statement.</i> (Feigenbaum, Jonathan) (Entered: 08/18/2006)
08/21/2006	•35	STIPULATION of Dismissal <i>of State Street Corp. with Prejudice</i> by State Street Corporation. (McGrane, Constance) (Entered: 08/21/2006)
09/01/2006	•36	Opposition re <u>32</u> MOTION for Summary Judgment <i>of Plaintiff</i> filed by Prudential Insurance Company of America. (Bertrand, Carey) (Entered: 09/01/2006)
09/01/2006	•37	Opposition re <u>29</u> MOTION for Summary Judgment filed by Teresa A. McCoy. (Feigenbaum, Jonathan) (Entered: 09/01/2006)
10/18/2006	•	Judge Nancy Gertner : Electronic ORDER entered finding as moot <u>12</u> Assented to Motion for Extension of Time to July 10, 2006 to File Answer re <u>11</u> Amended Complaint or Response to Amended Complaint (Filo, Jennifer) (Entered: 10/18/2006)
06/12/2007	•38	Judge Nancy Gertner: ORDER entered. MEMORANDUM AND ORDER RE: SUMMARY JUDGMENT.(MacDonald, Gail) (Entered: 06/12/2007)

06/12/2007	•39	Judge Nancy Gertner: JUDGMENT entered granting <u>29</u> Motion for Summary Judgment; denying <u>32</u> Motion for Summary Judgment. (MacDonald, Gail) (Entered: 06/12/2007)
06/19/2007	•40	NOTICE of Withdrawal of Appearance by Carey Louise Bertrand (Bertrand, Carey) (Entered: 06/19/2007)
06/20/2007	•41	NOTICE OF APPEAL by Teresa A. McCoy Filing fee: \$ 455, receipt number 1566406 NOTICE TO COUNSEL: A Transcript Report/Order Form, which can be downloaded from the First Circuit Court of Appeals web site at http://www.ca1.uscourts.gov/clerks/transcript.htm MUST be completed and submitted to the Court of Appeals. Appeal Record due by 7/10/2007. (Feigenbaum, Jonathan) (Entered: 06/20/2007)